Comments of the Citizens' Utility Board on the
Draft Environmental Impact Statement for the Elm Road Generating Station
PSCW Docket No. 05-CE-130

The Citizens' Utility Board (CUB) would first like to express its appreciation to Commission and DNR Staff who within a far too limited time period have had to put together a coherent framework for a comprehensive analysis of a complex proposal. Our comments are focused on areas where CUB believes that increased analysis and discussion are necessary and appropriate to allow a reasoned decision of the various pivotal issues present in this case. We have not commented on certain areas of the DEIS because we were aware that other parties would be focusing comments on those areas which we would generally adopt.

Summary

CUB's comments primarily focus on what it believes are several key issues and areas for which additional or revised information and analysis is required for the FEIS. Those areas include: (1) clearer and additional estimations of and comparisons of the potential cost of the proposed ERGS project and ERGS project alternatives; (2) additional information on important factors affecting the type and timing of resource additions appropriate to ensure reasonable rates, reliability and acceptable environmental and social impacts; (3) the need for consideration of an integrated resource portfolio option (i.e. an enhanced energy efficiency/load management, renewable resource and generation alternative); (4) additional and better information relevant to the fuel choice issue; (5) the potential projects' impacts on transmission systems; (6) additional analysis of potential changes that could effect the background and cumulative air emissions for the proposed ERGS units; (7) the issue of the

viability and alternatives to once through cooling at ERGS and the implications if once through cooling is neither a legally available option nor the "least cost" option at ERGS; and (8) the need for additional analysis and information on the potential impacts of increased rail traffic on communities and areas outside of the immediate area of the proposed site.

CUB will present its comments by Chapter.

I. Chapter 2 PTF Costs & Financing Mechanism

(1) On page 21, the DEIS states that: "PSC engineering staff believe, at this time, that the cost overrun potential for the ERGS is about 10 percent from the SPC units and somewhat greater from the IGCC unit." It would be appropriate to explain the primary bases for this judgment in the FEIS.

(2) On pages 25 through 28, there is a discussion comparing the rate and cost impacts between the proposed facility leases as proposed by We-Energies and the use of a traditional ratebasing approach for the proposed ERGS units. We believe that two important additions should be made to this discussion.

First, information should be provided that shows the change in any present net value differences if key financial or economic parameters are modified. For example, if a change in ROE is made (e.g. from 12.9% to 12.7%) what percentage does that change cause in costs under a ratebase approach, under the lease approach and for the present value difference between those approaches. Providing these types of sensitivities would present important information in considering the impacts of these approaches under a range of possible outcomes in this case. A reasonable number of such permutations on key financial parameters (ROE and equity portion of capitalization) and economic parameters (e.g. a 40 versus a 30 year lease) would be valuable.

Second, it would be desirable to highlight which cost factors most affect the present cost difference between a ratebase and a lease approach even assuming the same financial and economic parameters. For example, deferred tax credits would be handled differently under the two options: (under the rate base approach these credits would be flowed back to ratepayers over time while under the lease approach it appears tax law would require these credits to stay with the unit owner).

In this same vein, the discount rate used to calculate present value is important to the result. For example using a higher discount rate (such as the pre-tax economic cost of capital for a utility) will tend to produce smaller absolute present value differences between the rate base and lease approaches while a lower discount rate will widen the absolute difference. The FEIS should explicitly state the discount rate used to calculate the present values to be compared and explain why that is an appropriate discount rate to use for such comparative purposes.

Finally, since We-Energies is also proposing an IGCC unit, it is appropriate to provide such comparisons for all three proposed units in addition to only the two SPC units. All cost calculations and runs should also include the proposed "community mitigation" payment to Oak Creek that We-Energies has agreed to make.

II. Chapter 3: Need for Baseload Capacity

(1) On page 39 and more specifically on page 43, there is discussion about transmission system constraints that limit transfers between northern Illinois and Wisconsin. It would be useful to have a discussion of the potential to "correct" this situation as well as the likely time frame in which to do so and the implications, if any, for the need to build the three proposed plants within an appropriate time frame if such a constraint did not exist. In effect, the FEIS

should address whether such an option is a viable or superior alternative to meet some or all the demand to be met by the proposed ERGS project.

(2) On page 43, under "Planned Capacity…", it appears that Oak Creek 5 rather than Oak Creek 1 was meant to be the unit referred to.

III. Chapter 4: Alternatives to the Proposed Project

(1) On page 65, it is stated that We-Energies' commitment to renewable energy development (i.e. through its collaborative) "is conditional upon approval of the entire PTF project, including the ERGS projects." While this may accurately reflect the statement of a specific witness, the agreement creating the Renewable Energy Collaborative (REC) explicitly states the opposite. CUB suggests that the REC agreement is controlling as to We-Energies efforts to achieve at least a 5% share of its power supply from renewable energy by a date certain.

(2) Additional EGEAS runs: There are three additional sets of EGEAS runs that CUB believes are very important to include in the FEIS.

(a) A set of runs using the cost for the proposed ERGS SPC units plus 10% would reflect the potential risk to ratepayers consistent with WE's proposed lease that allows the approved cost by the Commission and up to 10% for overruns etc. if approved by the Commission as the ultimate sum to be collected through the lease generation agreements. For the SPC units, a 10% adder would be appropriate. Such a run should also be done for all three proposed units (for the IGCC unit, a 15% adder would be appropriate to be consistent with the proposed lease terms submitted by the Applicants).

The approved costs plus potential cost overrun adder (at least for the two SPC units) ought to be treated as an "additional" base case for all the scenario runs performed in the DEIS and shown in Tables 4-4 through 4-8 (except for the high coal construction case)

(b) There should be a run(s) which incorporates both the Staff's ranges for both estimated energy efficiency and renewable savings. As is appropriately pointed out on page 55, energy efficiency and/or renewables may only substitute for part of a resource block needed, but could change the type and/or timing of capacity needed to meet the remaining block of supply need. A combined run of energy efficiency and renewables for the ranges estimated by Staff would help provide useful information on this issue (see also page 61 about the potential value of an integrated resource portfolio). Staff may have contemplated this type of run when it suggests in the DEIS that an "integrated resource" run would be included in the FEIS.

Finally, the FEIS should more fully discuss the potential additional load management opportunities available and the potential impacts on the proposed ERGS project (either to unit need, type and/or timing) alone or as part of an "integrated resource" alternative. There is nothing in the DEIS to justify a conclusion that all cost-effective load management opportunities are currently being captured by We-Energies.

(3) The EGEAS runs provide useful information as to the potential type and timing of future resource additions. However, as inferred in a number of places in the DEIS, there may be other important factors that effect the type and timing of resource additions including a balancing of the cost of accelerating certain resource blocks versus the potential benefits of moving a

resource acquisition forward (e.g. potentially increased operational flexibility, increased flexibility to address potential contingencies or increased reliability under a broader set of scenarios). (e.g. DEIS at pages 35-36, 78-79)

The FEIS should identify and discuss potential factors (and the parameters) that could positively effect changing the timing for the addition of resource units to something different than that indicated by EGEAS runs and their potential implications for what is an "optimal plan" considering all relevant factors (e.g. not limiting the acquisition of wind resources to allow further cost reduction through expanded market competition, the capture of economies of scale, and accelerating other potential technological and business organization improvements).

IV. Chapter 5: Fuel Diversity

There are several places in the DEIS which discuss the potential cost and supply reliability prospects for natural gas (e.g. page 36 and pages 84-93). It would be useful to coordinate these discussions especially in terms of: (1) presenting data about the current ability to transport natural gas into eastern Wisconsin and what available capacity is there given future expected needs: is there a limit given the existing infrastructure and how close are we to it? and (2) the implications, if any, of increased natural gas usage for electric generation, especially baseload generation, for both natural gas and electric customers in Wisconsin (e.g. what are the implications, if any, for storage, for potential gas transmission rates on natural gas user prices or other implications of substantial natural gas fired generation use in the winter as the DEIS suggests needs to be considered on page 36).

The DEIS discusses natural gas resource adequacy, price and price volatility, and gas delivery availability and reliability. While CUB does not necessarily concur with some of the inferences drawn in this discussion, the issue of gas delivery

ability needs far more information in the FEIS. How much more natural gas can Wisconsin import before there is a need for new inter or intrastate facilities and what effect do existing and currently approved plants have on when such expansion might be needed? What are the potential implications of this situation for this case? There is a need for solid information in the FEIS on these issues.

A similar need to more fully address potential coal plant reliability issues in the FEIS is appropriate. In particular, additional information about potential forced outage percentages for coal units should be provided.

V. Chapter 6: Overview of Proposed Sites

Chapter 6 addresses the potential projects' impacts on the transmission systems and the costs of such impacts on the total costs of various projects (e.g. ERGS w/o IGCC versus "Calpine").

The direct connection costs <u>to</u> the "ATC grid" for ERGS by unit and the "Calpine" option (at least for the Fond du Lac unit) are already included in the DEIS. However, the costs that would be created for the ATC grid from ERGS or "Calpine" (the costs of necessary improvements to move the power over the ATC system to customers) are not known, albeit for different reasons (i.e. ERGS cost estimates are based on outmoded load additions assumptions which may effect the result of prior calculations and there is no "Calpine" information available on such "ATC grid" impact costs).

While these latter costs would be included in ATC tariffs, there seem to be two important questions which the FEIS must address: (1) what are the costs created by ERGS or "Calpine" that would be recovered in the ATC tariffs and/or (2) to what extent are these "but for" costs? (i.e. would be incurred at some point anyway to "reinforce" the T&D system in southeast

Wisconsin but are accelerated by either of these projects). If the above information is not available, it is difficult to see how the Commission can address the question about comparative impacts of different alternative projects on the basis of total costs as that issue is raised on page 78 of the DEIS.

The issue of comparative transmission costs requires further additional discussion in the FEIS. If there will not be comparative costs for the alternative projects, then additional discussion about whether these are primarily "but for" costs could be very important. (e.g. see pages 363-364). It is CUB's understanding that because of the way in which ATC models new interconnections that (in addition to assumptions about what new units will come on line earlier in the queue) at some point a new addition (not necessarily a large unit) may tip the balance in requiring a substantial upgrade in the existing area T&D infrastructure. This cost is in effect "socialized" into ATC tariffs because the area upgrade costs could be of a sufficient magnitude to deter even an appropriate plant addition if all such costs were imposed directly on the specific project.

It therefore would seem important to understand whether "ATC grid" cost impacts are the unique consequence of a specific plant being accommodated into the system or due to a plant's timing which happens to be the final incremental load addition that tips the balance as noted above. While the DEIS recognizes these distinctions, the FEIS should be much clearer as to which categories of "ATC grid" cost impacts the ERGS and the "Calpine" projects seem to be, if no such area cost impact estimates are available for each project. The FEIS should also discuss the potential implications for determining how to calculate total costs to allow potential projects such as ERGS w/o IGCC to be compared to other projects such as "Calpine".

VI. Chapter 7: Air Emissions

It would appear necessary and appropriate for the FEIS to calculate the background emissions set forth in Chapter 7 based on the recent agreement between Oak Creek and We-Energies (and potentially the proposed Consent Decree pending between We-Energies and the federal Department of Justice) and to draw appropriate observations about the potential impact of ERGS on air quality if such actions as contemplated in these agreements were made. While judgment will certainly be needed in doing this, the adoption of either the Oak Creek agreement or the proposed Consent Decree (or whatever resulted in such actions being taken) clearly will seem to effect the cumulative impact resulting from adding some or all of the proposed ERGS units.

VII. Chapter 8: Water Resources

The issue of once through cooling needs far more discussion than presented in the DEIS. There are several reasons: (1) there still is an issue whether We-Energies can legally use once through cooling at ERGS (DEIS at page 203) and (2) there is no discussion of the potential alternatives to assess whether there are better alternatives when all economic and non-economic factors are considered or because it is determined that once through cooling cannot be used under any circumstances. The answers to these questions would certainly seem to have meaningful impacts on the proposed ERGS project including but not limited to the overall cost of the proposed ERGS project and potential project alternatives.

VIII. Chapter 11: Community Impacts

On page 277, the DEIS notes that train traffic along the entire rail corridor could have community impacts at some distance from the actual plant site. However, it is hard to find a focused discussion of the potential impact of increased rail traffic on communities along the Union Pacific line including noise, vibration, traffic

and land development the further one gets from the ERGS site (e.g. in Racine County). These potential impacts require increased discussion in the FEIS. Such analysis (as well as for the entire rail corridor) must consider rail traffic both going to and coming from the ERGS site in its assessment of potential impacts.

Conclusion

The information and analysis on the issues noted above need to be improved and augmented for the FEIS if the purposes of a FEIS are to be satisfied. In making these comments, CUB recognizes the limitations on available resources and time that hindered Commission and DNR Staff in identifying and/or presenting a full presentation on the issues in the DEIS. CUB appreciates the effort that has gone into preparing the DEIS which we know will result in an even better FEIS.

Dated this 12th day of June, 2003.

Respectfully submitted,

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George R. Edgar
Attorney on behalf of CUB
State Bar Member No. 1014934
c/o WECC
211 S. Paterson Third Floor
Madison, WI. 53703
Telephone: (608) 249-9322 ext. 170
Fax: (608) 249-0339
E-mail: gre@weccusa.org

cc. PTF Phase II service list